

AMENDMENTS TO LB 1027

Introduced by Agriculture.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 77-202, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           77-202 (1) The following property shall be exempt from  
6 property taxes:

7           (a) Property of the state and its governmental  
8 subdivisions to the extent used or being developed for use by  
9 the state or governmental subdivision for a public purpose. For  
10 purposes of this subdivision, public purpose means use of the  
11 property (i) to provide public services with or without cost to the  
12 recipient, including the general operation of government, public  
13 education, public safety, transportation, public works, civil and  
14 criminal justice, public health and welfare, developments by a  
15 public housing authority, parks, culture, recreation, community  
16 development, and cemetery purposes, or (ii) to carry out the  
17 duties and responsibilities conferred by law with or without  
18 consideration. Public purpose does not include leasing of property  
19 to a private party unless the lease of the property is at fair  
20 market value for a public purpose. Leases of property by a public  
21 housing authority to low-income individuals as a place of residence  
22 are for the authority's public purpose;

23           (b) Unleased property of the state or its governmental

1 subdivisions which is not being used or developed for use for  
2 a public purpose but upon which a payment in lieu of taxes is  
3 paid for public safety, rescue, and emergency services and road  
4 or street construction or maintenance services to all governmental  
5 units providing such services to the property. Except as provided  
6 in Article VIII, section 11, of the Constitution of Nebraska,  
7 the payment in lieu of taxes shall be based on the proportionate  
8 share of the cost of providing public safety, rescue, or emergency  
9 services and road or street construction or maintenance services  
10 unless a general policy is adopted by the governing body of the  
11 governmental subdivision providing such services which provides for  
12 a different method of determining the amount of the payment in  
13 lieu of taxes. The governing body may adopt a general policy by  
14 ordinance or resolution for determining the amount of payment in  
15 lieu of taxes by majority vote after a hearing on the ordinance  
16 or resolution. Such ordinance or resolution shall nevertheless  
17 result in an equitable contribution for the cost of providing such  
18 services to the exempt property;

19 (c) Property owned by and used exclusively for  
20 agricultural and horticultural societies;

21 (d) Property owned by educational, religious, charitable,  
22 or cemetery organizations, or any organization for the exclusive  
23 benefit of any such educational, religious, charitable, or cemetery  
24 organization, and used exclusively for educational, religious,  
25 charitable, or cemetery purposes, when such property is not  
26 (i) owned or used for financial gain or profit to either the  
27 owner or user, (ii) used for the sale of alcoholic liquors for

1 more than twenty hours per week, or (iii) owned or used by  
2 an organization which discriminates in membership or employment  
3 based on race, color, or national origin. For purposes of this  
4 subdivision, educational organization means (A) an institution  
5 operated exclusively for the purpose of offering regular courses  
6 with systematic instruction in academic, vocational, or technical  
7 subjects or assisting students through services relating to the  
8 origination, processing, or guarantying of federally reinsured  
9 student loans for higher education or (B) a museum or historical  
10 society operated exclusively for the benefit and education of the  
11 public. For purposes of this subdivision, charitable organization  
12 means an organization operated exclusively for the purpose of the  
13 mental, social, or physical benefit of the public or an indefinite  
14 number of persons; and

15 (e) Household goods and personal effects not owned or  
16 used for financial gain or profit to either the owner or user.

17 (2) The increased value of land by reason of shade and  
18 ornamental trees planted along the highway shall not be taken into  
19 account in the valuation of land.

20 (3) Tangible personal property which is not depreciable  
21 tangible personal property as defined in section 77-119 shall be  
22 exempt from property tax.

23 (4) Motor vehicles required to be registered for  
24 operation on the highways of this state shall be exempt from  
25 payment of property taxes.

26 (5) Business and agricultural inventory shall be exempt  
27 from the personal property tax. For purposes of this subsection,

1 business inventory includes personal property owned for purposes  
2 of leasing or renting such property to others for financial gain  
3 only if the personal property is of a type which in the ordinary  
4 course of business is leased or rented thirty days or less and  
5 may be returned at the option of the lessee or renter at any time  
6 and the personal property is of a type which would be considered  
7 household goods or personal effects if owned by an individual. All  
8 other personal property owned for purposes of leasing or renting  
9 such property to others for financial gain shall not be considered  
10 business inventory.

11 (6) Any personal property exempt pursuant to subsection  
12 (2) of section 77-4105 or section 4 of this act shall be exempt  
13 from the personal property tax.

14 (7) Livestock shall be exempt from the personal property  
15 tax.

16 (8) Any personal property exempt pursuant to the Nebraska  
17 Advantage Act shall be exempt from the personal property tax.

18 Sec. 2. Section 77-5201, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 77-5201 Sections 77-5201 to 77-5215 and section 4 of this  
21 act shall be known and may be cited as the Beginning Farmer Tax  
22 Credit Act.

23 Sec. 3. Section 77-5203, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 77-5203 For purposes of the Beginning Farmer Tax Credit  
26 Act:

27 (1) Agricultural assets means agricultural land,

1 livestock, farming, or livestock production facilities or buildings  
2 and machinery used for farming or livestock production located in  
3 Nebraska;

4 (2) Board means the Beginning Farmer Board created by  
5 section 77-5204;

6 (3) Farm means any tract of land over ten acres in area  
7 used for or devoted to the commercial production of farm products;

8 (4) Farm product means those plants and animals useful  
9 to man and includes, but is not limited to, forages and sod  
10 crops, grains and feed crops, dairy and dairy products, poultry  
11 and poultry products, livestock, including breeding and grazing  
12 livestock, fruits, and vegetables;

13 (5) Farming or livestock production means the active use,  
14 management, and operation of real and personal property for the  
15 production of a farm product;

16 (6) Financial management program means a program for  
17 beginning farmers or livestock producers which includes, but  
18 is not limited to, assistance in the creation and proper use  
19 of record-keeping systems, periodic private consultations with  
20 licensed financial management personnel, year-end monthly cash flow  
21 analysis, and detailed enterprise analysis;

22 (7) Owner of agricultural assets means:

23 (a) An individual or a trustee having an ownership  
24 interest in an agricultural asset located within the State of  
25 Nebraska who ~~(i) is a resident individual as defined in section~~  
26 ~~77-2714.01, (ii) in the case of an individual, has derived at least~~  
27 ~~fifty percent of his or her gross annual income for income tax~~

1 purposes from farming or livestock production, or in the case of a  
2 trustee, the trust has derived at least fifty percent of its income  
3 for income tax purposes from farming or livestock production, (iii)  
4 has provided the majority of the day-to-day physical labor and  
5 management of a farm over a period of time deemed sufficient to  
6 qualify for the granting of tax credits under the act by the board,  
7 and (iv) has other such meets any qualifications as determined by  
8 the board;

9 (b) A spouse, child, or sibling who acquires an ownership  
10 interest in agricultural assets as a joint tenant, heir, or devisee  
11 of an individual or trustee who would qualify as an owner of  
12 agricultural assets under subdivision (7)(a) of this section; or

13 (c) A partnership, corporation, limited liability  
14 company, or other business entity having an ownership interest  
15 in an agricultural asset located within the State of Nebraska  
16 which meets any additional qualifications determined by the board;

17 (i) which has at least one general partner that is a resident  
18 individual as defined in section 77-2714.01, (ii) which derives  
19 at least fifty percent of its income from farming or livestock  
20 production, and (iii) in which one or more partners have provided  
21 the majority of the day-to-day physical labor and management of a  
22 farm over a period of time deemed sufficient to qualify for the  
23 granting of tax credits by the board; or

24 (d) A corporation or syndicate qualified to own  
25 agricultural land under Article XII, section 8, of the Constitution  
26 of Nebraska;

27 (8) Qualified beginning farmer or livestock producer

1 means an individual who is a resident individual as defined in  
2 section 77-2714.01, who has entered farming or livestock production  
3 or is seeking entry into farming or livestock production, who  
4 intends to farm or raise crops or livestock on land located  
5 within the state borders of Nebraska, and who meets the  
6 eligibility guidelines established in section 77-5209 and such  
7 other qualifications as determined by the board; and

8 (9) Share-rent agreement means a rental agreement  
9 in which the principal consideration given to the owner of  
10 agricultural assets is a predetermined portion of the production of  
11 farm products from the rented agricultural assets.

12 Sec. 4. (1) Agricultural and horticultural machinery  
13 and equipment of a qualified beginning farmer or livestock  
14 producer utilized in the beginning farmer's or livestock producer's  
15 operation may be exempt from tangible personal property tax to the  
16 extent provided in this section.

17 (2) A qualified beginning farmer or livestock producer  
18 seeking an exemption of taxable agricultural and horticultural  
19 machinery and equipment from tangible personal property tax under  
20 this section shall apply for an exemption to the county assessor  
21 on or before December 31 of the year preceding the year for  
22 which the exemption is to begin. Application shall be on forms  
23 prescribed by the Tax Commissioner. For the initial year of  
24 application, an applicant shall provide the original documentation  
25 of certification provided by the board pursuant to section 77-5208  
26 with the application. Failure to provide the required documentation  
27 shall result in a denial of the exemption for the following year

1 but shall be considered as an application for the year thereafter.

2 (3) The county assessor shall approve or deny the  
3 application for exemption. On or before February 1, the county  
4 assessor shall issue notice of approval or denial to the applicant.  
5 If the application is approved, the county assessor shall exempt  
6 no more than one hundred thousand dollars of taxable value of  
7 agricultural or horticultural machinery and equipment for each  
8 year. If the application is denied by the county assessor, a  
9 written protest of the denial of the application may be filed  
10 within thirty days after the mailing of the denial to the county  
11 board of equalization.

12 (4) All provisions of section 77-1502 except dates for  
13 filing of a protest, the period for hearing protests, and the  
14 date for mailing notice of the county board of equalization's  
15 decision are applicable to any protest filed pursuant to this  
16 section. The county board of equalization shall decide any protest  
17 filed pursuant to this section within thirty days after the  
18 filing of the protest. The county clerk shall mail a copy of any  
19 decision made by the county board of equalization on a protest  
20 filed pursuant to this section to the applicant within seven days  
21 after the board's decision. Any decision of the county board of  
22 equalization may be appealed to the Tax Equalization and Review  
23 Commission, in accordance with section 77-5013, within thirty days  
24 after the date of the decision. Any applicant may petition the  
25 Tax Equalization and Review Commission in accordance with section  
26 77-5013, on or before December 31 of each year, to determine  
27 whether the agricultural and horticultural machinery and equipment

1 will receive the exemption for that year if a failure to give  
2 notice as prescribed by this section prevented timely filing of a  
3 protest or appeal provided for in this section.

4 (5) A properly granted exemption for taxable agricultural  
5 and horticultural machinery and equipment under this section  
6 shall continue for a period of three years if each year a  
7 Nebraska personal property tax return and supporting schedules  
8 and depreciation worksheet, showing a list and value of all  
9 taxable tangible personal property, are provided and filed by the  
10 beginning farmer or livestock producer with the county assessor  
11 when due. The value of taxable agricultural and horticultural  
12 machinery and equipment exempted in any year shall not exceed  
13 one hundred thousand dollars. The exemption allowed under this  
14 section shall continue irrespective of whether the person claiming  
15 the exemption no longer meets the qualification of a beginning  
16 farmer or livestock producer pursuant to section 77-5209 during the  
17 exemption period unless the beginning farmer or livestock producer  
18 discontinues farming or livestock production.

19 (6) Any person whose agricultural and horticultural  
20 machinery and equipment has been exempted from tangible personal  
21 property tax pursuant to this section shall be permanently  
22 disqualified from any further exemption of agricultural and  
23 horticultural machinery and equipment from tangible personal  
24 property tax as a qualified beginning farmer or livestock producer.

25 Sec. 5. Section 77-5204, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 77-5204 For the purpose of developing and directing

1 programs to provide increased and enhanced opportunities for  
2 beginning farmers and livestock producers, the Beginning Farmer  
3 Board is created. For administrative and budgetary purposes  
4 only, the board shall be housed within the Department of  
5 Agriculture. The board shall be vested with the following duties  
6 and responsibilities:

7 (1) To approve and certify beginning farmers and  
8 livestock producers as eligible for the programs provided by the  
9 board, for eligibility to claim tax credits authorized by section  
10 77-5209.01, and for eligibility to claim an exemption of taxable  
11 tangible personal property tax as provided by section 4 of this  
12 act;

13 (2) To approve and certify owners of agricultural assets  
14 as eligible for the tax credits authorized by sections 77-5211 to  
15 77-5213;

16 (3) To advocate joint ventures between beginning farmers  
17 or livestock producers and existing private and public credit  
18 and banking licensed institutions, as well as to advocate joint  
19 ventures with owners of agricultural assets desiring to assist  
20 beginning farmers and livestock producers seeking entry into  
21 farming or livestock production;

22 (4) To provide necessary and reasonable assistance  
23 and support to beginning farmers and livestock producers for  
24 qualification and participation in financial management programs  
25 approved by the board;

26 (5) To advocate appropriate changes in policies and  
27 programs of other public and private institutions or agencies which

1 will directly benefit beginning farmers and livestock producers  
2 and may include changes regarding financing, taxation, and any  
3 other existing policies which prohibit or impede individuals from  
4 entering into farming or livestock production;

5 (6) To provide adequate explanations of facts and aspects  
6 of available programs offered or recommended by the board intended  
7 for beginning farmers and livestock producers;

8 (7) To assist and educate beginning farmers and livestock  
9 producers by acting as a liaison between beginning farmers or  
10 livestock producers and the Nebraska Investment Finance Authority;

11 (8) To encourage licensed financial institutions and  
12 individuals to use alternative amortization schedules for loans  
13 and land contracts granted to beginning farmers and livestock  
14 producers;

15 (9) To refer beginning farmers and livestock producers to  
16 agencies and organizations which may provide additional pertinent  
17 information and assistance;

18 (10) To provide any other assistance and support the  
19 board deems necessary and appropriate in order for entry into  
20 farming or livestock production;

21 (11) To adopt and promulgate rules and regulations  
22 necessary to carry out the purposes of the Beginning Farmer Tax  
23 Credit Act, including criteria required for tax credit eligibility  
24 and financial management program certification and guidelines which  
25 constitute a viably sized farm that is necessary to adequately  
26 support a beginning farmer or livestock producer. Such guidelines  
27 shall vary and take into account the region of the state, number

1 of acres, land quality and type, type of operation, type of crops  
2 or livestock raised, and other factors of farming or livestock  
3 production; and

4 (12) To keep minutes of the board's meetings and other  
5 books and records which will adequately reflect actions and  
6 decisions of the board and to provide an annual report to the  
7 Governor, the Legislative Fiscal Analyst, and the Clerk of the  
8 Legislature by December 1.

9 Sec. 6. Section 77-5208, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 77-5208 The board shall meet at least twice during the  
12 year. The board shall review pending applications in order to  
13 approve and certify beginning farmers and livestock producers as  
14 eligible for the programs provided by the board, ~~and~~ to approve  
15 and certify owners of agricultural assets as eligible for the tax  
16 credits authorized by sections 77-5211 to 77-5213, and to approve  
17 and certify qualified beginning farmers and livestock producers  
18 as eligible for the tax credit authorized by section 77-5209.01  
19 and for qualification to claim an exemption of taxable tangible  
20 personal property as provided by section 4 of this act. Any action  
21 taken by the board regarding approval and certification of program  
22 eligibility, granting of tax credits, or termination of rental  
23 agreements shall require the affirmative vote of at least four  
24 members of the board.

25 Sec. 7. Section 77-5209, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 77-5209 The board shall determine who is qualified as a

1 beginning farmer or livestock producer based on the qualifications  
2 found in this section. A qualified beginning farmer or livestock  
3 producer shall be an individual who: (1) Has a net worth of not  
4 more than two hundred thousand dollars, including any holdings by  
5 a spouse or dependent, based on fair market value; (2) provides  
6 the majority of the day-to-day physical labor and management of  
7 ~~the farm,~~ his or her farming or livestock production operations;  
8 (3) has, by the judgment of the board, adequate farming or  
9 livestock production experience or demonstrates knowledge in the  
10 type of farming or livestock production for which he or she  
11 seeks assistance from the board; (4) demonstrates to the board a  
12 profit potential by submitting board-approved projected earnings  
13 statements and agrees that farming or livestock production is  
14 intended to become his or her principal source of income; (5)  
15 demonstrates to the board a need for assistance; (6) participates  
16 in a financial management program approved by the board; (7)  
17 submits a nutrient management plan and a soil conservation plan to  
18 the board on any applicable agricultural assets purchased or rented  
19 from an owner of agricultural assets; and (8) ~~is not a relative~~  
20 ~~as defined in section 36-702 of the owner of agricultural assets~~  
21 ~~or of a partner, member, shareholder, or trustee of the owner~~  
22 ~~of agricultural assets in which the beginning farmer or livestock~~  
23 ~~producer is seeking to enter into a rental agreement;~~ and (9) has  
24 such other qualifications as specified by the board. A qualified  
25 beginning farmer or livestock producer who has participated in  
26 a board approved and certified three-year rental agreement with  
27 an owner of agricultural assets shall not be eligible to file

1 a subsequent application with the board but may refer to the  
2 board for additional support and participate in programs, including  
3 educational and financial programs and seminars, established or  
4 recommended by the board that are applicable to the continued  
5 success of such farmer or livestock producer.

6 Sec. 8. Section 77-5211, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 77-5211 (1) ~~An~~ Except as otherwise disallowed under  
9 subsection (5) of this section, an owner of agricultural assets  
10 shall be allowed a credit to be applied against the state income  
11 tax liability of such owner for agricultural assets rented on a  
12 rental agreement basis, including cash rent of agricultural assets  
13 or cash equivalent of a share-rent rental, to qualified beginning  
14 farmers or livestock producers. Such asset shall be rented at  
15 prevailing community rates as determined by the board.

16 (2) The credit allowed shall be for renting agricultural  
17 assets used for farming or livestock production. Such credit  
18 shall be granted by the Department of Revenue only after approval  
19 and certification by the board and a written three-year rental  
20 agreement for such assets is entered into between an owner of  
21 agricultural assets and a qualified beginning farmer or livestock  
22 producer. An owner of agricultural assets or qualified beginning  
23 farmer or livestock producer may terminate such agreement for  
24 reasonable cause upon approval by the board. If an agreement is  
25 terminated without fault on the part of the owner of agricultural  
26 assets as determined by the board, the tax credit shall not be  
27 retroactively disallowed. If an agreement is terminated with fault

1 on the part of the owner of agricultural assets as determined by  
2 the board, any prior tax credits claimed by such owner shall be  
3 disallowed and recaptured and shall be immediately due and payable  
4 to the State of Nebraska.

5 (3) A credit may be granted to an owner of agricultural  
6 assets for renting agricultural assets, including cash rent of  
7 agricultural assets or cash equivalent of a share-rent agreement,  
8 to any qualified beginning farmer or livestock producer for a  
9 period of three years. An owner of agricultural assets shall not be  
10 eligible for further credits under the Beginning Farmer Tax Credit  
11 Act unless the rental agreement is terminated prior to the end of  
12 the three-year period through no fault of the owner of agricultural  
13 assets. If the board finds that such a termination was not the  
14 fault of the owner of agricultural assets, it may approve the owner  
15 for credits arising from a subsequent qualifying rental agreement  
16 with a different qualified beginning farmer or livestock producer.

17 (4) Any credit allowable to a partnership, a corporation,  
18 a syndicate, or an estate or trust may be distributed to the  
19 partners, members, shareholders, or beneficiaries. Any credit  
20 distributed shall be distributed in the same manner as income  
21 is distributed.

22 (5) The credit allowed under this section shall not be  
23 allowed to an owner of agricultural assets for a rental agreement  
24 with a beginning farmer or livestock producer who is a relative,  
25 as defined in section 36-702, of the owner of agricultural assets  
26 or of a partner, member, shareholder, or trustee of the owner of  
27 agricultural assets.

1           Sec. 9. Section 77-5215, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-5215 (1) The changes made in sections 77-5201,  
4 77-5203, 77-5208, 77-5209, and 77-5211 to 77-5213 by Laws 2006, LB  
5 990, shall become operative for all credits earned in tax years  
6 beginning or deemed to begin on and after January 1, 2007, under  
7 the Internal Revenue Code of 1986, as amended. For all credits  
8 earned in tax years beginning or deemed to begin prior to January  
9 1, 2007, under the code, the provisions of the Beginning Farmer Tax  
10 Credit Act as they existed prior to such date shall apply.

11           (2) The changes made in sections 77-5203 and 77-5209 by  
12 this legislative bill shall become operative for all credits earned  
13 in tax years beginning or deemed to begin on and after January 1,  
14 2008, under the Internal Revenue Code of 1986, as amended. For all  
15 credits earned in tax years beginning or deemed to begin prior to  
16 January 1, 2008, under the code, the provisions of the Beginning  
17 Farmer Tax Credit Act as they existed prior to such date shall  
18 apply.

19           Sec. 10. Original section 77-5204, Reissue Revised  
20 Statutes of Nebraska, and sections 77-202, 77-5201, 77-5203,  
21 77-5208, 77-5209, 77-5211, and 77-5215, Revised Statutes Cumulative  
22 Supplement, 2006, are repealed.